IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY
WRIT PETITION NO : 9151 of 2004

Between:
M.Satyanarayana Yadav, s/o M.Mallaiah, r/o Ashok Nagar, Gokul Apartments, Hyderabad.

..... PETITIONER

AND

1 The Dy.Registrar of Co.op.Societies, (Officer-on-Special Duty), The Vasavi Co.op.Urban Bank Ltd., Malakept, Hyderabad.
2 The Basavi Co.op.Urban Bank Ltd., Malakpet, Hyderabad rep., by its Managing Director.
3 The Vasavi Co.op.Urban Bank Ltd., Chikkadapalli, Hyderabad rep., by its Branch Manager.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus, declare that the impugned notice of Sale of Immovable property vide E.P.No.313/2003/OSD/VCUB, TL-76, Chikkadapalli Branch dt.15-5-2004 issued by the 1st respondent, as illegal, arbitrary and unconstitutional and consequently direct the respondents to stop all further proceedings till the disposal of the earlier writ petition.

WRIT PETITION NO : 7487 of 2004

Between:
M. Satyanarayana Yadav S/o Mallaiah Gokul Apartments, Hyderabad
..... PETITIONER

AND

1 The Dy. Registrar of Coop. Societies, (OSD)/ Arbitrator, vasavi

Coop. Urban Bank Ltd., 16/2/705/9/11, Malakpet Hyderabad
2 The Vasavi Coop. Urban Bank Ltd., Malakpet, Hyderabad rep by Managing Director
3 The Vasavi Coop. Urban Bank Ltd., Chikkadapalli., Hyderabad rep by
Branch Manager

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in issuing the Letter Ref VCUB/2004/OTS/78 dt 24-3-2004 by the 2nd respondent and award passed by the 1st respondent vide ARC. NO. 454/2002/OSD/ VCUB, dt 6-8-2003 as illegal, arbitrary and consequently direct the respondents not to recover the amounts after deducting the payments which were made by the respondents to a tune of Rs. 1,02.500/-

For the Petitioner: R.G.DASARADHA RAMI REDDY

For the Respondents: MR.S.ASHOK ANAND KUMAR, G.P. FOR CO-OPERATION.

The Court made the following:

COMMON ORDER:

These two writ petitions are filed by the petitioner who is one of the debtors of the respondent-Bank. According to the petitioner, though he has borrowed amounts from the Bank, he repaid certain amounts. Those payments were not taken into account by the Bank and when the Bank was proceeding against his property for recovery of the amounts by way of sale, he has come

up before this Court by way of these two writ petitions.

2. During the pendency of these two writ petitions, on the application made by the petitioner for One Time Settlement (OTS), an order was passed by the Bank directing the petitioner to pay certain amount and in fact, it is stated by the learned Standing Counsel for the Bank that the petitioner is paying those amounts in instalments but not in lumpsum.

3. The main grievance of the petitioner is that out of the payments made by him to the Bank, the Bank did not give credit to two payments i.e., Rs.10,000/- and Rs.20,000/- which were made by way of two cheques on 31.07.2003 and 28.02.2004. As these two payments are not given credit, he sought for a direction to the Bank to give credit to the said two payments and he is prepared to pay the balance amount in pursuance of the order under OTS.

4. Learned Standing Counsel for the Bank, however, contended that though the said two cheques were originally deposited, the same were not honoured and therefore they were not given credit. But, subsequently it is stated that the first cheque for Rs.10,000/-, dated 31.07.2003 was presented in the month of December, 2003, and accordingly, encashed amount was credited to the petitioner's account on 03.12.2003. Similarly, with

reference to the second cheque dated 28.02.2004 for Rs.20,000/-, when it was presented originally it was dishonoured and again at the request of the petitioner it was re-presented for collection on 16.06.2004 and is yet to be recovered. Therefore, the learned Standing Counsel contended that one amount has already been accounted for. With reference to the second amount of Rs.20,000/-, the same would be accounted for as against the outstanding debt as soon as it is recovered.

5. But, the learned counsel for the petitioner, however, sought for a direction to consider the representation which he has proposed to make to the respondent-Bank.

6. In view of the above stated facts and the disputed two amounts which according to the petitioner were not accounted, the petitioner is at liberty to make representation to the respondent-Bank and the respondent-Bank is directed to consider the same and pass appropriate orders within a period of two weeks from the date of presentation of the said representation. It is further stated that the auction is scheduled to be fixed on 21.06.2004. If the petitioner seeks indulgence of this Court to stay the auction, he has to pay a sum of Rs.85,000/- (Rupees eighty five thousand only) with reference to which there is no dispute. If such an amount

is paid on or before 21.06.2004, the respondent-Bank is directed not to proceed for sale of property of the petitioner.

7. The writ petitions are accordingly disposed of. No costs.

17th June, 2004

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

To

1.The Dy.Registrar of Co-operative Societies,
(Officer-on-special duty), The Vasavi
Co-operative Urban Bank Ltd.,
Malakpet, Hyderabad.

2.The Vasavi Co-operative Urban bank Ltd.,
Malakpet, Hyderabad, rep. By its Managing Director.

3.The Vasavi Co-operative Urban Bank Ltd.,
Chikkadapalli, Hyderabad rep. By its Branch Manager.

4.The Government Pleader for Co-operation, High Court Buildings, Hyderabad.

5.Two CD copies.

Note: Furnish CC by tomorrow.

17-06-2004

Note: Furnish CC by tomorrow.

(B/O)

VGB